



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-07-2026

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THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL MP No. 7897 of 2026

in

CRL A No.571 of 2026

Alexander
S/o. Policap, No.949, Thiruvalluvar
Nagar, Thiruvanmiyur, Chennai.

Srilankan Address:
No.48, Martin Road,
Jafana, Srilanka.

Petitioner(s)

Vs

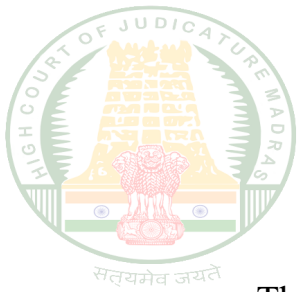
Union Represented by,
Intelligence Officer,
Narcotic Control Bureau,
Chennai Zonal Unit, Chennai 90.

Respondent(s)

PRAYER: Criminal Miscellaneous Petition filed under Section 415 of BNSS, to suspend the sentence of imprisonment imposed on the petitioner in CC.No.91 of 2020 on the file of learned Special Judge, I Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai and enlarge the petitioner's on bail pending in Crl.A.No.571 of 2026 on the file of this Court.

For Petitioner(s): Mr.M.S.Ramesh

For Respondent(s): Mr.A.Kumaraguru
Special Public Prosecutor
For NCB Cases

**ORDER**

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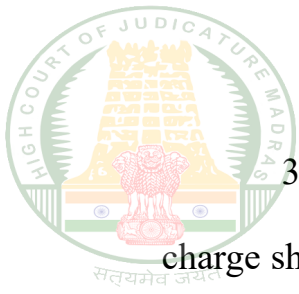
This Criminal Miscellaneous Petition has been filed for suspending the sentence imposed in the judgment passed in C.C.No.91 of 2020 dated 26.02.2026 by the learned I Additional Special Court for Exclusive Trial of Cases under NDPS Act Cases at Chennai.

2. By the impugned Judgment dated 26.02.2026, the Trial Court convicted the Petitioner/Accused A2 and sentenced as follows:

Sl. No.	Sections	Imprisonment	Fine amount
1.	U/s.8(c) r/w 22(c) of the NDPS Act, 1982.	Sentenced to Rigorous Imprisonment for 10 years with a fine of Rs.1,00,000/- (Rupees One Lakh Only) in default to undergo Simple Imprisonment for three months.	Rs.1,00,000/-

3. The brief facts of the case are as follows:-

3.1. A complaint was received on 13.02.2020 from the Narcotics Control Bureau (NCB), based on specific information that A1 and A2 were carrying 5 kilograms of Methamphetamine (ICE). Pursuant to the same, arrests were made on 14.02.2020.



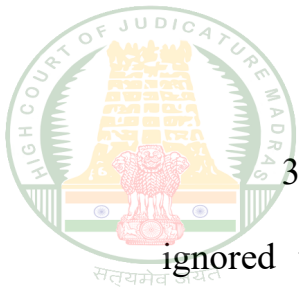
3.2. After completion of investigation, the investigating officer filed a charge sheet and the same was taken on file as C.C.No.91 of 2020 on the file of the I Additional Special Court for Exclusive Trial of Cases under NDPS Act Cases, Chennai.

3.3. After hearing the counsel on both sides, charges were framed against the accused.

3.4. On the side of the prosecution, PW1 to PW8 were examined and Ex.P1 to Ex.P111 were marked and M.O.1 to M.O.8 were produced. On the side of the defence, neither any witness was examined nor any document marked.

3.5. The trial Court, after hearing the arguments on both sides and upon consideration of the entire materials on record, found the petitioner/appellant/Accused No.2 guilty of the offences charged and convicted and sentenced him vide judgment dated 26.02.2026.

3.6. The petitioner is the accused No.2 who has been convicted along with other co-accused, namely, A1, A3 and A4 by the Trial Court for the offence under Section 8(c) r/w Section 22(c) of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985.



3.7. The learned counsel for the petitioner submitted that the trial Court ignored the cross examination of prosecution witnesses and mechanically applied its own principles, failing to look into the fact that there has been a clear violation of Section 42 and 50 of NDPS Act. Further, the appellant/accused No.2 is in incarceration for more than 6 ½ years till date. Further, he submitted that the bail was granted to the accused No.3 in Crl.M.P.No.5576 of 2026 in Crl.A.No.339 of 2026, dated 16.06.2026.

4. The learned Special Public Prosecutor appearing for the respondent filed a counter narrating the case details and the arrest, seizure, recovery of the contraband from the accused. He fairly submitted that the accused is in Judicial Custody for more than 6 ½ years.

5. Heard both sides.

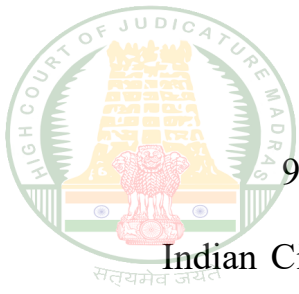
6. The petitioner appears to be a Srilankan National who has been in incarceration for a period of 6 ½ years as of now. The four accused were originally charged for the offence under Section 8(c) r/w Section 29, 8(c) r/w Section 22(c) and Section 8(c) r/w Section 28 of the NDPS Act, on 01.11.2021. Thereafter, the Court altered the charge under Section 8(c) r/w Section 29, 8(c) r/w Section 22(c) of the NDPS Act. The role played by the petitioner is that the



petitioner was in the premises along with other accused at the time of seizure of the contraband item i.e., 5 kilograms of Methamphetamine (ICE). The challenge to the conviction is primarily on the ground that neither the owner of the house from where the seizure took place on 13.02.2020 nor the supplier has been examined.

7. The learned Counsel for the Petitioner has drawn attention to the recent decision of the Hon'ble Supreme Court in **Narcotic Control Bureau v. Lakhwinder Singh** in Criminal Appeal No.(s).475 of 2025, dated 29.01.2025, wherein the Hon'ble Supreme Court has taken note of the fact that if the Courts start adopting a rigid approach and impose fixed-term sentences, there will be a violation of the rights of the accused under Article 21 of the Constitution of India.

8. While dealing with Section 37 of the NDPS Act, the Hon'ble Supreme Court also observed in the facts of the case that the accused had undergone a substantial part of the substantive sentence, and considering the pendency of the Criminal Appeal, his Appeal is not likely to be heard before the accused had undergone the entire period of sentence. It would amount to a violation of rights under Article 21 of the Constitution of India.



9. There, before the Hon'ble Supreme Court the petitioner was an Indian Citizen. The petitioner herein is a Srilankan Citizen. Article 21 of the Constitution of India is wide enough to apply even to foreigners as stated by the Hon'ble Supreme Court in a *catena* of decisions, and more recently held in the case of **The Customs vs. Faridah Nakanwagi** in SLP.Crl.No.2725 of 2026, dated 18.03.2026.

10. Considering the fact that the petitioner herein has been kept in incarceration over a period of six years and six months and has undergone more than 50% of substantive punishment of ten years, and considering the fact that the appeal will not be taken up immediately for final hearing before the entire period of sentence is completed by the petitioner, I am inclined to suspend the sentence awarded by the trial Court considering the fact that the petitioner was detained in the Detention Refugee Camp, subject to the petitioner being kept in the Detention Refugee Camp, Puzhal, Chennai.

11. In view of the above, the sentence of imprisonment is suspended and the Petitioner/Accused No.2 is to be enlarged on bail and kept in Detention Refugee Camp, Puzhal, Chennai. Accordingly, pending disposal of the appeal, the sentences are suspended and the Petitioner/Appellant/Accused No.2 are enlarged on bail, subject to the following conditions:-



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(i) The petitioner/Appellant/Accused No.2 shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties, each for a like sum to the satisfaction of the learned I Additional Special Court for Exclusive Trial of Cases under NDPS Act cases at Chennai.

(ii) The Petitioner/Appellant/Accused No.2 and the sureties shall affix their photographs and Left Thumb Impressions in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity and

(iii) The petitioner/Appellant/Accused No.2 shall appear before the trial Court on every alternate Monday at 10.30 a.m., until further orders, without fail;

12. Accordingly, this Criminal Miscellaneous Petition is ordered. It is open for the petitioner to return to Sri Lankan and report back to the Srilankan authorities.

02-07-2026

Jd

Neutral Citation: Yes/No

Note: Issue order copy today i.e., on 03.07.2026.



To

1. The I Additional Special Court for
Exclusive Trial of Cases under NDPS Act Cases,
Chennai.
2. The Intelligence Officer
Union of India
Narcotic Control Bureau
Chennai Zonal Unit, Chennai-90.
3. The Superintendent
Central Prison, Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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